

REMARKS/ARGUMENTS

Claims 1-36 are currently pending, although claims 34-36 have been withdrawn from consideration. Given that claims 34-36 depend from claim 1, Applicants request rejoinder of these claims pursuant to MPEP § 821.04 upon indication of allowable subject matter.

The Office Action rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 5,556,615 (“Janchitraponvej”) in view of U.S. patent 6,214,326 (“Dupuis”), U.S. patent 4,390,552 (“Jacquet”) and PCT patent application publication no. WO 01/28506 (“Jahedshoar”). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

The claimed invention relates to non-washing compositions containing water, a silicone having quaternary ammonium groups, a cationic surfactant, two cationic polymers and one thickening polymer. Compositions containing all of the required ingredients have improved properties, for example providing the materials to which they have been applied with improved suppleness and/or texture as compared to compositions which do not contain all of the required ingredients. The cited references neither teach nor suggest such improved compositions.

Regarding Janchitraponvej, this reference neither teaches nor suggests the claimed invention for at least the reason that it does not disclose adding any cationic polymers to the compositions disclosed therein, let alone adding at least two cationic polymers. In fact, Janchitraponvej teaches away from such addition of cationic polymers. Specifically, Janchitraponvej discloses that (a) cationic polymers were known to be conditioning agents (col. 2, lines 35-37); and (b) prior art compositions having cationic compounds could result in

hair having reduced elasticity, body and set (col. 2, lines 43-46). Janchitraponvej also states that his invention compositions result in hair having, among other improved properties, improved body. (Col. 16, line 5). Thus, Janchitraponvej discloses conditioning compositions which reportedly yield improved results when applied to hair as compared to prior art compositions. Given that Janchitraponvej neither teaches nor suggests adding cationic polymers to his compositions (even when discussing optional ingredients), given that Janchitraponvej acknowledges that cationic polymers had been used in the past, and given that Janchitraponvej's compositions have improved body properties, one skilled in the art would interpret Janchitraponvej's disclosure as being directed to compositions which exclude cationic polymers but which, instead, focus on the presence of other ingredients to provide the improved properties (for example, body) disclosed therein. In view of Janchitraponvej's disclosure, no motivation to add cationic polymers to Janchitraponvej's compositions would have or could have existed.

The secondary references do not compensate for Janchitraponvej's fatal deficiencies. None of the cited references would motivate one skilled in the art to add cationic polymers to Janchitraponvej's compositions, particularly in view of Janchitraponvej's teaching away from the addition of such polymers.

In view of the above, Applicants respectfully submit that no *prima facie* case of obviousness has been set forth. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

The Office Action also rejected the pending claims as obvious under the judicially created doctrine of double patenting over the claims in U.S. patent application serial no.

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10/606,786 in view of Jacquet. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

The claims in the '786 application neither teach nor suggest the claimed invention. For example, the '786 claims require the presence of a liquid fatty alcohol, whereas the pending claims do not. Moreover, none of the claims in the '786 application requires the presence of two cationic polymers, a thickening agent and a cationic surfactant as is required by all of the currently pending claims. Given these differences, the '786 application claims would not have led one skilled in the art to combine all of the required elements in a single composition. Jacquet, which is cited merely for its disclosure related to alcohols, cannot compensate for these fatal deficiencies, particularly in view of the fact that the pending claims in the present application do not require the presence of such alcohols.

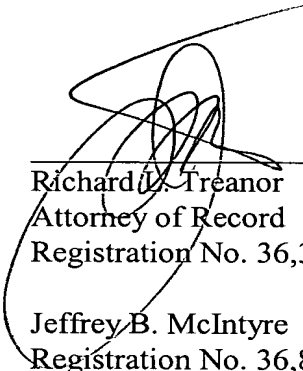
In view of the above, Applicants respectfully request reconsideration and withdrawal of the double patenting rejection.

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Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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